Nova Scotia Utility and Review Board
Annual Accountability Report
For the Fiscal Year Ended March 31, 2007

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Accountability Statement

The accountability report of the Nova Scotia Utility and Review Board for the year ended March 31, 2007, is prepared according to the *Provincial Finance Act* and government policy and guidelines. These authorities require the reporting of outcomes against the Board's business plan for the fiscal year 2006-2007. The reporting of such outcomes necessarily includes estimates, judgements and opinions by management.

It is acknowledged that this accountability report is the responsibility of the Board's management and is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's business plan for the year.

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Peter W. Gurnham, Q.C., Chair

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Paul G. Allen, CA, Executive Director

Introduction

This accountability report reflects on progress made in achieving the goals and priorities set out in the 2006-2007 business plan of the Board, and to describe other significant activities and accomplishments during the year. The 2006-2007 business plan more fully describes the Board's core business functions, goals and priorities for the year. The Board recommends that this accountability report be read in conjunction with the business plan.

Mandate

The Board is a quasi-judicial body created by the *Utility and Review Board Act*, S.N.S. 1992 c.11. The Board has regulatory and adjudicative jurisdiction to hear applications and appeals under a number of statutes including, but not limited to, the *Public Utilities Act*, *Assessment Act*, *Municipal Government Act*, *Motor Carrier Act*, *Expropriation Act*, *Victims of Crime Act*, *Gaming Control Act, Liquor Licensing Act, Gas Distribution Act, Pipelines Act, Fire Safety Act* and *Education Act*. A complete list of statutes is attached as Appendix A.

The following is a brief description of the Board's responsibilities. For ease of understanding, the various functions are classified as regulatory or adjudicative in nature.

Regulatory Matters

Public Utilities. The Board exercises general supervision over all water, electrical, and steam heat utilities within the Province. This includes setting rates, tolls and charges; approval of regulations for provision of service; approval of capital expenditures in excess of $25,000; and any other matter the Board feels necessary to properly carry out its responsibilities. Nova Scotia Power Inc., an investor-owned utility, is the largest public utility regulated by the Board.

Halifax - Dartmouth Bridges. The Board is required to set the rates, tolls and charges to be paid for use of the two bridges which cross Halifax Harbour and are operated by the Halifax-Dartmouth Bridge Commission.

Motor Carrier. The Board is responsible for a comprehensive safety inspection program and economic regulation of all public passenger carriers within the Province, and interprovincial carriers operating to and from the Province. Carriers are broadly defined to include not-for-profit carriers and school bus operations, as well as commercial bus companies. Commercial van operations are also included in the safety program but are not economically regulated. Economic regulation includes setting fares, approving routes and stops, approving equipment for use, hearing complaints against carriers, and hearing applications for modification or discontinuance of service.

Natural Gas. The Board has responsibility for regulation of the distribution of natural gas in Nova Scotia including pipelines and underground storage facilities. That includes, but is not limited to, selection of franchisees, issuing permits to construct distribution systems, and issuance of operating permits for finished systems.

Alcohol, Gaming and Amusements. The Board hears applications involving licensing and discipline of establishments authorized to sell liquor; licensing and discipline relating to gambling operations; and appeals of film classifications. Applications for reinstatement of access to casinos by persons who have voluntarily excluded themselves are also heard by the Board.

Railways. The Board has regulatory responsibilities relating to licensing of short line railways which operate wholly within the Province.

Adjudicative Matters

Planning. The Board hears appeals from municipal councils relating to amendment of land use by-laws and staff decisions concerning issuance or amendment of development agreements.

Municipal and School Board Electoral Boundaries. The Board also hears applications to establish and amend boundaries of municipalities, including towns and regional municipalities. The Board sets polling district boundaries and determines the number of councillors for each municipality, and sets school board electoral district boundaries and determines the number of school board members.

Assessment. The Board hears appeals from decisions of the Regional Assessment Appeal Court respecting real property and business occupancy assessments and change of use tax levies.

Expropriation Compensation. Where a property owner and an expropriating authority cannot agree on the compensation to be paid for expropriated land an application can be made to the Board to set the value.

Victims' Rights and Services Compensation. The Board hears appeals from the decisions of the Director of Victim Services at the Department of Justice concerning compensation for certain expenses incurred by victims of crime.

Fire Safety. Certain orders made by the Fire Marshal and other fire officials under the *Fire Safety Act* may be appealed to the Board.

Highlights

The following were the most prominent matters during the year requiring significant effort or resources, or having broad public interest:

a. A hearing relating to a request from NSPI (Nova Scotia Power Inc.) to establish a new rate to replace the Extra Large Industrial Interruptible Rate Tariff (ELIIR-2).

b. A hearing relating to a request by NSPI for a 7.5% general increase in electrical rates, tolls and charges.

c. A hearing relating to the renewal of a cabaret license (Sensations Cabaret) for a premises at 169 Wyse Road, Dartmouth including consideration of continuation of adult entertainment privileges.

d. A disciplinary hearing into alleged violations of Liquor License Regulation 15(i) (failure to comply with terms of license prohibiting adult entertainment) at Sensations Cabaret, 169 Wyse Road, Dartmouth.

e. Release of a final decision relating to the cross applications of the Town of Antigonish for annexation of certain areas of the county and the County of Antigonish for amalgamation with the town. This is the final decision in a series of hearings and interim decisions in this case.

f. A hearing relating to an application by Heritage Gas Limited for a series of rate increases of 2.5% in all rate classes in each of the next five years; a new rate class 4A; and certain other changes that would make it easier for them to expand service in the franchise area.

g. A hearing relating to an application by the Halifax-Dartmouth Bridge Commission to amend its existing rates, tolls and charges by replacing the present registered gross vehicle weight classifications with an axle count classification system, together with the elimination of tokens and the adoption of new Rules and Regulations.

h. A decision concerning a decision of the Harbour East Community Council to refuse an application by Amber Contracting Limited to rezone of a vacant 16.69 acre parcel of land from P-2 (Community Facility) to R-2 (Two Unit Residential).

i. A hearing to determine if Brison Sand & Gravel is an aggrieved person within the meaning of the *Municipal Government Act* and therefore able to appeal a decision of the West Hants Municipal Council to rezone lands owned by Meadows Development Limited located at Falmouth from AG/R (Agriculture/Resource) and C (Commercial) to RR (Restricted Residential).

j. Various hearings pursuant to Section 369(1) of the *Municipal Government Act* which requires the council of every municipality to conduct a study and make an application to confirm or alter the number of councillors and the boundaries and polling districts. These hearings began in the 2006-2007 fiscal year and will continue into the 2007-2008 fiscal year.

k. Commencement of an Integrated Resource Planning Process (IRP) which incorporates both supply and demand side management options over a 23 year planning period to enable NSPI to meet future emissions and other requirements in a cost-effective and reliable manner.

l. Numerous permit and license applications by Heritage Gas relating to the continued development of its distribution systems in Dartmouth and Amherst.

While the above items were the most significant activities in terms of public interest, impact on large numbers of taxpayers or ratepayers and consumption of Board resources, there are a large number of matters, such as appeal hearings, hearings related to public passenger matters, capital expenditure approvals, licensing applications and transfers, which cumulatively make up the bulk of the Board's work.

Mission

The mission of the Nova Scotia Utility and Review Board is to carry out the mandate assigned to it by government through statute and regulation.

Core Activities

Quasi-judicial Function. This is the primary function of the Board - to carry out those responsibilities delegated by the Legislature pursuant to various statutes.

Motor Carrier (Public Passenger) Administration. This involves safety inspection, licensing administration, and enforcement functions relating to the public passenger industry and some not-for-profit organizations.

Priorities and Goals

Core Area 1 - Quasi-judicial Function

To produce timely, correct decisions.

In fiscal 2006-2007 there were two components to this:

a. The Board has been tasked in legislation and regulation to receive applications and appeals, hear evidence and argument in an appropriate manner, and produce fair, legally correct and well reasoned decisions. For fiscal 2006-2007 the Board continued a target of rendering decisions within 90 days of the date of receipt of final submissions.

b. The Board has recently been assigned the responsibility to set prices for gasoline and fuel oil products on a semi-monthly basis.

During fiscal 2006-2007 decisions were rendered within 90 days of the date of final evidence in 94% of cases (2005-2006: 97.6%). Further details can be found in the "Measuring Performance" section of this report.

The anticipated transfer of responsibility relating to setting of prices for gasoline and diesel oil (motive fuels) has been deferred by government pending further study.

To improve service to the public and parties appearing before the Board.

The following initiatives were begun during fiscal 2005-2006 and were scheduled to be completed during fiscal 2006-2007:

c. Revision of the various hearing processes including revising the related rules of practice and procedure.

d. Review and revision of how advisory staff are providing support to the hearing process.

The review of the various hearing processes and rules were completed during the year and the revised rules released. The review of how advisory staff provide support was completed and, while no further structural changes were made, expectations concerning work product were clarified. In addition, a new computerized database was developed and implemented for tracking of work in progress.

For fiscal 2006-2007 the following new initiatives were planned:

a. Seek ways to decrease the total time taken to process case files.

b. Consider a plan to expand the use of technology by introducing electronic

filing of documents in order to improve access to information, reduce effort and expense in management of paper records, and reduce paper waste.

During the year the Board continued to collect data on the total time being taken to process files of various types. Late in the year the Board recognized the need to defer this initiative and consolidate it with a larger strategic planning process planned for fiscal 2007-2008.

An electronic filing initiative was started in early 2007 but was only partially complete by year end. The project will continue to completion in fiscal 2007-2008. The original scope has been expanded to include provision of a secure method for transferring electronic files to the Board, information on management of case files, public access to filed documents via the Internet, access to electronic records in the hearing room, and litigation support to members and staff.

To make the Board a better place to work.

During fiscal 2006-2007 the following activities were planned:

a. Complete the first full year performance review cycle using the new Human Resources Policy. This includes a review of results from the trial period and appropriate adjustment of procedures, if any are warranted.

b. Introduce an orientation and training package for new Members and staff.

c. Participate in the Province's Employee Wellness Program.

d. Develop a staff succession plan.

The continued implementation of the new performance review process was successfully carried out as intended. A new orientation package for staff and members was started but further work is needed and will continue into fiscal 2007-2008. The Province's Employee Wellness Program was introduced and everyone encouraged to participate. Data on staff succession was successfully compiled and specific plans have been started to address issues identified.

To ensure proper stewardship of resources and effective administration.

Periodically it is prudent to review internal administrative practices to ensure they are relevant and eliminate inefficiencies or obsolescence. During fiscal 2006-2007 the Board was to review the current administrative policies of the Board and develop a plan to update obsolete policies, add needed ones, or delete those that are no longer required.

The focus during fiscal 2006-2007 was update of the Board's STOR (Standard for Operational Records) and STAR (Standard for Administrative Records). Both were revised and submitted for necessary approvals to the Government Records Committee. Work on other administrative policies has been deferred until the new strategic planning initiative is complete.

Core Area 2: Motor Carrier (Public Passenger) Administration

Maintain an effective safety inspection and enforcement program.

The Division is responsible for inspecting public passenger vehicles subject to the *Motor Carrier Act*, and others voluntarily participating in the program. It is also responsible for enforcing the *Motor Carrier Act, Motor Vehicle Act, Motor Vehicle Transport Act Canada*, and license conditions imposed by Board Order. For fiscal 2006-2007 the Division planned to:

a. Safety inspect all vehicles under Board jurisdiction at least twice annually.

b. Review current statistics on enforcement and consider the effectiveness of the measurements and enforcement activities.

The safety inspection program was undertaken as planned. During 2006-2007 a total of 5,008 vehicle inspections (2005-2006: 4,876) were reported resulting in 3,044 instances of the vehicle being removed from service (2005-2006: 3,247) for repair or maintenance. In the vast majority of cases the vehicles were later returned to service after correction of the faults and reinspection.

Enforcement statistics for the year with comparisons for last year are as follows:

	2006-2007	2005-2006
Road checks	138	177
Investigations	400	419
Summary offense tickets issued	11	43
Motor Carrier violation reports issued	20	13

In this year, as well as in past, inspection activities have been conducted from unmarked, private vehicles equipped with hidden emergency lighting and sirens. Discussions relating to enforcement effectiveness and safety prompted a review of that policy. It was decided to replace the unmarked vehicles with marked patrol cars and additional funding was approved by government for that purpose. The new vehicles were delivered to the division in the last week of the fiscal year to be in service in April of 2007. It is expected that this new visible presence will have a significant positive impact on both enforcement activities and safety.

Update administrative practices and procedures.

For fiscal 2006-2007 the Division will:

a. Begin implementation of the new computerized inspection and licensing system designed during fiscal 2005-2006. This includes introduction of data capture directly into the system by the inspectors in the field and adjustment of associated business processes.

b. Maintain the existing inspection and licensing system until the new system is ready for use.

As planned, programming for the new computer licensing and inspection tracking system began in August of 2006. Delays have been experienced due to turnover in programming staff and resolving programming problems. As a result, the project has been continued into fiscal 2007-2008. In the interim, notebook computers have been deployed to inspection staff to enhance communications through e-mail and other applications. Remote connectivity to the new system has been deferred until programming is complete and tested. The existing, although aged, license and inspection system has been maintained and is operational.

Continue support to the Atlantic Provinces School Bus Purchase Program.

As in past years the Division planned to assist in specification of the types of vehicles to purchase, audit during delivery to ensure design and product supplied are consistent with the purchase agreement, and to safety inspect delivered vehicles.

The support was delivered as planned. A total of 173 busses were purchased with 67 coming to Nova Scotia.

Budget Context

Nova Scotia Utility & Review Board - Estimated Budget Expenditures by Core Business				
Core Business (all)	Budget 2006-2007	Actual 2006-2007	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	3,164.0	3,164.0	-	1
Recoveries from utilities and others	2,951.2	2,592.6	(358.6)	3
Unbudgeted operations	0.0	1,752.3	1,752.3	2
Total revenues	6,115.2	7,508.9	1,393.7	
Expenditures (non-capital):				
Budgeted	6,115.2	5,614.5	(500.7)	4
Unbudgeted operations	0.0	1,743.2	1,743.2	2
Total expenditures	6,115.2	7,357.7	1,242.5	
Expected net income (loss)	0.0	151.2	151.2	
Restricted & unrestricted surplus, beginning of year	735.0	765.2	30.2	
Restricted & unrestricted surplus, end of year	735.0	916.4	181.4	
Salaries and benefits	3,918.5	3,936.4	17.9	
Funded Members and staff (FTE's)	52.0	50.0	(2.0)	

Notes

1. In addition to the operating grant of $3,164,000 the Board also received an additional $376,000 for purchase of marked patrol vehicles and $100,000 for development of the new computerized licensing and inspection system, both in the Motor Carrier Division. This additional $476,000 represents capital spending to the Board and has been excluded from the above table. Funds received by grant totalled $3,640,000 for the year.

2. Unbudgeted operating revenues and unbudgeted operating expenditures relate to direct costs of hearings. For larger proceedings out-of-pocket expenditures for items such as expert witnesses, hearing facilities, and legal fees are, in many cases, recovered from one or more parties to the proceeding.

3. Budgeted recoveries were significantly lower than expected as a result of deferring transfer of the Petroleum Products Pricing responsibilities to the Board. Costs relating to that mandate were to be billed to the Province of Nova Scotia. The total reduction in recoveries was partially offset by additional funding provided by government for salary increases relating to cost of living adjustments and other benefit changes arising from settlement of collective agreements. The reduction was further offset by inclusion of deferred revenues relating to capital asset amortization.

4. Budgeted expenditures were significantly lower than expected as a result of deferring transfer of the Petroleum Products Pricing responsibilities to the Board. Costs relating to that mandate were to be billed to the Province of Nova Scotia. The total reduction in expenditures was partially offset by inclusion of depreciation relating to new capital asset acquisitions during the year.

The full financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia.

Outcomes and Performance Measures

Performance measurement in a quasi-judicial context must be carefully designed due to the "custom" or "one-time" nature of many applications and appeals. For example, some hearings require reviews of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require the review of small amounts of evidence and, after scheduling, need only a few days to complete. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision.

Core Business Areas, Measures and Outcomes

*Core Business Area 1: Quasi-judicial Function*____

The core function of the Utility and Review Board is to hear matters and produce unbiased, timely, fair and legally correct decisions based on the specific facts of each case.

Desired Outcome:	Timely, correct decisions.
Measure:	Average time between receipt of final submissions and release of decision.
Target:	Substantially all decisions released within 90 days of receipt of final evidence for hearings and within 10 days for interlocutory matters.
What Does the Measure Tell Us?	This measure shows how timely the Board is providing decisions to those making applications or appeals.

Where Are We Now and Reporting on 2006-2007 Targets?

As can be seen from the table below the targets are being met in virtually all cases for hearing decisions and in most cases for interlocutory matters. Average decision times are presented in the following table. Variations in average times can be expected from year to year. Larger, more complex hearings take more time to decide and cause the average to increase. Conversely, larger numbers of single matter hearings take less time to decide and cause the average to decrease. With one exception, the average decision time in each mandate area is considerably below the stated goal of producing decisions in less than 90 days from the date of receiving final evidence.

Where do want to be?

As noted above, our target is to release substantially all decisions within 90 days of receipt of final evidence for hearings and within 10 days for interlocutory matters. At this time we wish to continue to have a success rate that is as high as possible while respecting the primary emphasis of producing an unbiased, timely, fair and legally correct decision. No targets have been set for average times to decision in recognition of the higher priority being placed on fairness and correctness . The information will continue to be monitored and the averages kept as low as possible.

Type of Matter[1]	2006-2007			2005-2006		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
Cases requiring hearing	597	575	96.3%	659	643	97.6%
Interlocutory Matters	135	113	83.7%	92	73	79.3%
Combined	732	688	94.0%	751	716	95.3%

Average decision production times by area of jurisdiction are as follows:

Jurisdiction / Mandate	2006-2007		2005-2006	
	Number of Decisions (all types)	Average Time to Decision (days)	Number of Decisions (all types)	Average Time to Decision (days)
Alcohol, Gaming and Amusements	296	5.5	360	1.1
Assessment	36	55.5	37	57.2
Criminal Injury Compensation	6	187	2	58
Electricity	22	5.9	20	18.1
Expropriation Compensation	1	233	4	60.8
Fire Safety	2	34.5	0	0
Halifax-Dartmouth Bridge Commission	1	96	1	0[2]
Motor Carrier	67	2.4	110	3
Municipal and School Board Boundaries	11	26.4	1	299[3]
Natural Gas	109	2.4	90	2
Planning	26	36.4	15	74.7
Water	20	30	19	15.6

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[1] Hearings include public hearings, *in camera* or closed sessions, telephone conferences and *ex parte* proceedings. Interlocutory matters are applications which do not require a hearing but do require approval of a Board member.

[2] Decision was rendered on the same day as receipt of final evidence.

[3] Complex matter re Antigonish annexation and amalgamation applications.

Note: The 2006-2007 Business Plan included measures relating to establishment of prices for gasoline and certain fuel oils. Transfer of this responsibility has been deferred. Consequently, no measures are available to be included in this report.

Core Business Area 2: Motor Carrier (Public Passenger) Administration

The core function of the Motor Carrier Division of the Board is to provide effective inspection and enforcement services relating to motor carrier operations.

Desired Outcome:	An effective safety inspection and enforcement program.
Measure:	Preventable accidents[4] caused by mechanical failure.
Target:	No preventable accidents caused by mechanical failure.
What Does the Measure Tell Us?	This measure shows the effectiveness of the physical inspection program by looking at the end result. The aim of the safety program is to prevent accidents through regular mechanical inspection, examination of maintenance programs, working with carriers to resolve technical and operating problems, and enforcement activities.
Where Are We Now and Reporting on 2006-2007 Targets?	During the year no accidents were identified that could be attributed to preventable mechanical failure.
Where do we want to be?	Our target is to continue to have no accidents which can be attributed to preventable mechanical failure.

[4] Preventable accidents is limited to accidents that result in death, injury or significant property damage. Minor incidents which are not reported are not investigated or otherwise considered.

Appendix A
Nova Scotia Utility and Review Board
List of Statutes Containing Board Mandate

Assessment Act, R.S.N.S. 1989, c.23 as amended
Education Act, S.N.S. 1995-96, c.1 as amended
Electrical Installation and Inspection Act, R.S.N.S. 1989, c. 141 as amended
Energy Resources Conservation Act, R.S.N.S., 1989, c.147 as amended
Expropriation Act, R.S.N.S. 1989, c. 156 as amended
Fire Safety Act, S.N.S. 2002, c.6
Gaming Control Act (Part II), S.N.S. 1994-95, c. 4 as amended
Gas Distribution Act, S.N.S., 1997, c. 4 as amended
Halifax-Dartmouth Bridge Commission Act, R.S.N.S. 1989, c.192 as amended
Halifax Regional Municipality Water Commission Act, S.N.S. 1963, c.55 as amended
Heritage Property Act, R.S.N.S. 1989, c.199 as amended
Liquor Control Act, R.S.N.S. 1989, c.260 as amended
Motor Carrier Act (public passenger only), R.S.N.S. 1989, c.292 as amended
Motor Vehicle Transport Act of Canada, S.C. 1987, c.35 (Federal) as amended
Municipal Government Act, S.N.S. 1998, c.18 as amended
Nova Scotia Power Finance Corporation Act, R.S.N.S. 1989, c.351 as amended
Nova Scotia Power Privatization Act, S.N.S. 1992, c.8 as amended
Petroleum Resources Act, R.S.N.S. 1989, c. 342 as amended
Petroleum Resources Removal Permit Act, S.N.S. 1999 c.7 as amended
Pipeline Act, R.S.N.S. 1989 c. 345 as amended
Public Utilities Act, R.S.N.S. 1989, c.380 as amended
Railways Act, S.N.S. 1993, c.11 as amended
Theatre and Amusement Act, R.S.N.S. 1989, c. 466 as amended
Underground Hydrocarbons Storage Act, S.N.S. 2001, c. 37
Utility and Review Board Act, S.N.S. 1992, c. 11 as amended
Victims' Rights and Services Act, R.S.N.S. 1989, c.14 as amended